

ESTATE OF RENE WEIL

JULY 1, 1952.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5376]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5376) for the relief of the estate of Rene Weil, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 6, after the figures strike out “, together with interest compounded at the rate of 6 per centum per annum from February 1, 1944”.

The purpose of the proposed legislation is to pay the sum of \$2,927.23 to the estate of Rene Weil, in full settlement of all claims of said estate against the United States for refund of overpayments in Federal estate tax which were made on July 30, 1943, and February 1, 1944.

STATEMENT OF FACTS

On July 30, 1943, the sum of \$4,202.50 (with interest in the sum of \$9.80) was paid on account of Federal estate tax.

On February 1, 1944, a deficiency in Federal estate tax, amounting to the sum of \$1,188.43, was paid (with interest in the sum of \$38.62).

On November 28, 1944, a 30-day letter was addressed by the Bureau of Internal Revenue to the estate, claiming a deficiency in Federal income tax in the sum of \$23,257.08, for the fiscal year of the decedent ending March 31, 1942.

On February 26, 1946, a second 30-day letter was addressed by the Bureau of Internal Revenue to the estate, claiming a deficiency in Federal income tax in the sum of \$30,372.12, for the taxable period from January 1, 1942, to April 17, 1942 (the date of death of the decedent).

The income tax deficiency asserted by the Bureau of Internal Revenue was contested by the estate, and negotiations were conducted with representatives of the Bureau of Internal Revenue for the purpose of contesting assessment of said deficiency or effecting a settlement thereof, if such settlement could be effected upon terms deemed satisfactory to the estate. (It should be noted that the income-tax deficiency involved the deductibility of certain alleged "war losses" under section 127 of the Internal Revenue Code and that the determination of such deficiency required the determination of complicated issues of fact.)

Before any determination had been made with respect to the liability of the estate for payment of the alleged tax deficiency in Federal income tax, and before payment of any part of said deficiency had been made, the statutory period within which a claim for refund of Federal estate tax could be made, expired (the date of expiration of said period being February 1, 1947).

Subsequent to February 1, 1947, negotiations for settlement of said income-tax deficiency continued, and on November 12, 1947, a formal offer was submitted on behalf of the estate to settle said deficiency asserted for the taxable period from January 1, 1942, to April 17, 1942, for the sum of \$9,856.98.

In the belief that this offer would be accepted, a claim was filed on November 26, 1947, for refund of Federal estate tax, in the sum of \$1,881.70, the amount of such refund being computed by deducting said amount of \$9,856.98 as a liability of the decedent, pursuant to section 812(b) of the Internal Revenue Code and Regulations 105, section 81.37.

Subsequently, said offer was rejected, and on May 18, 1949, a new offer of settlement was accepted by the Bureau of Internal Revenue. Pursuant to this new offer, the income-tax deficiency for the taxable period from January 1, to April 17, 1942, was settled by payment of the sum of \$15,186.06 (with interest in the sum of \$5,809.43). Such payment was made by two checks, one dated August 4, 1949, in the sum of \$20,000, and the second dated October 26, 1949, in the sum of \$995.49.

Prior to said payment in settlement of said deficiency, a request was made on behalf of the estate, by letter addressed to the Bureau of Internal Revenue, dated April 14, 1949, for consent to offset the overpayment of Federal estate tax against the Federal income-tax deficiency. This request was denied.

Based upon the deficiency in Federal income tax paid by the estate, and upon a deficiency in New York State income tax in the sum of \$2,661.32, which was assessed by the State of New York for the fiscal year of the decedent ending March 31, 1942, an amended claim was filed on May 4, 1950, for refund of Federal estate tax in the sum of \$3,113.52 (instead of in the sum of \$1,881.70, as stated in the original claim for refund).

Thereafter, negotiations were had with representatives of the Department of Taxation and Finance of the State of New York, and the asserted New York State income-tax deficiency was compromised, and on March 21, 1951, said deficiency was settled by payment of the sum of \$1,330.66, with interest in the sum of \$459.08. (Assessment of deficiency in New York State income tax for the taxable year of the decedent ending March 31, 1942, was first made by letter dated June

26, 1945, but determination of this deficiency had been deferred pending determination of the Federal income-tax deficiency, which involved the same issues.)

On March 9, 1951, a letter was received by the estate from the Treasury Department, rejecting the claims for refund filed on behalf of the estate November 26, 1947, and May 4, 1950, on the ground that the statutory period within which to file the same had expired on February 1, 1947.

Based upon the amount of the Federal and New York State income-tax deficiencies, as finally compromised and paid, the amount of refund of Federal estate tax to which the estate is entitled, is \$2,927.23. (The discrepancy between this amount and the amount of \$3,113.52 claimed in the amended refund claim filed on May 4, 1950, arises from the fact that the calculations reflected in the amended refund claim were predicated upon a deficiency in New York State income tax, which was then asserted in the sum of \$2,666.32, instead of a deficiency in such tax in the sum of \$1,330.66, which was the amount actually paid in settlement of said deficiency.)

The Treasury Department opposed this legislation, in view of the statute of limitations. However, the committee disagrees with the conclusion of the Treasury Department and it is the opinion of the committee that this estate should be reimbursed for this erroneous payment, and favorable consideration of the bill is hereby recommended.

TREASURY DEPARTMENT,
Washington, April 21, 1952.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of September 19, 1951, requesting a report on H. R. 5376 (82d Cong., 1st sess.), a bill for the relief of the estate of Rene Weil, which you transmitted to the Treasury Department. The proposed bill would authorize and direct the Secretary of the Treasury to pay to the estate of Rene Weil, late of New York, N. Y., the sum of \$2,927.23, together with interest compounded at the rate of 6 percent per annum, from February 1, 1944, the payment to be in full settlement of all claims of such estate against the United States for refund of overpayments in Federal estate tax.

It would appear from the bill that the alleged overpayment arises as a result of certain Federal and State income-tax payments not having been deducted from the value of the gross estate as provided by section 812 (b) (3) of the Internal Revenue Code. The Treasury Department has no knowledge of such deductions, none having been claimed on the return, nor whether if such tax payments were in fact made, they were of the type properly allowable as a deduction under the above code section. Any claim, therefore, by the estate would appear to be based solely upon realization by those administering the estate of an oversight, at a time when the statute of limitations for filing a claim for refund had run. No notice of overpayment of estate tax was issued nor was any claim for the refunding thereof filed prior to the expiration of the statutory period of 3 years from the date of such payment.

Congress has determined that it is a sound policy to include in the revenue system a statute of limitations by the operation of which, after a certain period of time, it becomes impossible for the Government to collect additional taxes or for a taxpayer to obtain refunds of overpayments of taxes. Except in the case of special circumstances, which do not appear to exist here, this Department strongly holds to the view that the granting of special relief in the cases of taxes erroneously collected, the refund of which is not claimed in the time and manner prescribed by law, constitutes a discrimination against other taxpayers similarly situated and would create an undesirable precedent which might encourage other taxpayers to seek relief in the same manner.

In view of the above, the Treasury Department is not in favor of enactment of the proposed bill.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

Very truly yours,

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

SLATTERY & GUTHMAN,
Woodward Building, Washington, D. C., May 9, 1952.

Hon. F. R. COUDERT, Jr.,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN COUDERT: We have examined the copy of the letter dated April 21, 1952, addressed by Mr. Thomas J. Lynch, Acting Secretary of the Treasury, to Hon. Emanuel Celler, chairman, Committee on the Judiciary, concerning H. R. 5376, a bill for the relief of the estate of Rene Weil, which letter you kindly forwarded to me under date of April 29.

For the convenience of the committee, I enclose herewith a résumé of the facts relating to claim for refund of the Federal estate tax in the instant matter.

In Mr. Lynch's letter, he indicates that the legislative relief sought by us should not be granted except in the case of "special circumstances." The enclosed résumé, we respectfully submit, fully establishes such "special circumstances."

The time within which to file claim for refund of Federal estate tax expired on February 1, 1947. At that time, it had not been determined whether any deficiencies in Federal or State income tax would be payable by the estate for any period prior to the decedent's death. It was not known at that time whether the estate would be liable for payment of any such deficiencies, and if so, the amounts thereof. On February 1, 1947, and for some period subsequent to that date, these deficiencies were being contested by the estate in negotiations with the tax authorities. With respect to the deficiency in Federal income tax, the first offer of settlement was submitted by the estate on November 12, 1947, and the final offer of settlement was not accepted until May 18, 1949. With respect to the deficiency in New York State income tax, the amount thereof was not fixed until on or about March 21, 1951.

It should be noted that the deficiencies in Federal and New York State income tax involved the deductibility of certain alleged "war losses" and that the determination of the deductibility of these items required the determination of complicated issues of fact.

There was no right to receive refund of Federal estate taxes until long after February 1, 1947, on which date the time to file claim for refund thereof expired. It is grossly inequitable to deprive the estate of the refund to which it is clearly entitled because of the fact that the right to such refund did not arise until after the statute of limitations had run.

The right of the estate to refund of Federal estate tax is based on overpayment thereof and there certainly could be no overpayment thereof until it had been determined that the estate was liable for payment of deficiencies in Federal and New York State income tax for a period prior to the decedent's death. Such determination was not made until some time after February 1, 1947.

It should be noted that by letter dated April 4, 1949, the estate sought to offset the overpayment of Federal estate tax against the Federal income-tax deficiency but this request was denied. If legislative relief is not granted, the estate will be conclusively deprived of the tax adjustment to which it is entitled.

We do not understand Mr. Lynch's statement that "The Treasury Department has no knowledge of such deductions, none having been claimed on the return, nor whether if such tax payments were in fact made, they were of the type properly allowable as a deduction under the above code section." The Treasury Department was clearly apprised of these deductions in the claims for refund of the estate tax filed on November 26, 1947, and on May 4, 1950. To resolve any doubt as to whether the tax payments were in fact made, we are enclosing photostatic copies of the checks evidencing such payments (two checks drawn to the order of the Collector of Internal Revenue, in the amounts of \$20,000 and \$995.49, and dated April 4, 1949, and October 26, 1949, respectively, and one check drawn to the order of the New York State Tax Commission in the amount of \$1,614.82 and dated March 21, 1951. Please note that the total deficiency in New York State income tax amounted to \$1,789.74 (deficiency of \$1,330.66, plus interest of \$459.08), and that the check dated March 21, 1951, drawn to the order of the New York State Tax Commission was in the amount of \$1,614.82. The difference of \$174.92 was paid by application of a credit to which the estate was entitled for later tax years, to wit, the years ending March 31, 1946, and March 31, 1947.

As to whether such tax payments are properly allowable as a deduction for Federal estate-tax purposes, we refer you to section 812 (b) (3) of the Internal Revenue Code and more particularly to regulations 105, section 81.37, which provides that "unpaid taxes upon income received during the decedent's lifetime are deductible." The deductibility for Federal estate-tax purposes of income taxes paid by an estate for a period prior to the decedent's death has also been clearly sustained by the courts. (See *Julius Glaser and Aaron Waldheim, Executors of the Estate of David Sommers v. Commissioner of Internal Revenue*, 27 B. T. A. 313 (1932), and *Estate of Laura Nelson Kirkwood et al. v. Commissioner of Internal Revenue*, 23 B. T. A. 955 (1931).)

We are strongly of the opinion that the facts in our case clearly satisfy the requirement of "special circumstances" referred to by Mr. Lynch in his letter, and warrant special legislative relief.

We will be pleased to submit any additional available data in regard to the matter under discussion.

Respectfully,

SEYMOUR S. GUTHMAN.

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